



Australian Government
GEMS Regulator

GREENHOUSE & ENERGY
**MINIMUM
STANDARDS
REGULATOR**



Regulator Performance Framework

Self-Assessment Report

Submitted by: The Greenhouse Energy Minimum Standards (GEMS) Regulator

Date: 19 November 2020

www.industry.gov.au

Contents

1. Performance Snapshot for 2019-20	3
2. Introduction	5
2.1 About the GEMS Regulator	5
2.2 The Australian Government Regulator Performance Framework	6
2.3 GEMS Regulator's Approach to the Implement of the Framework	7
3. Assessment	8
3.1 KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities	8
3.2 KPI 2: Communication with regulated entities is clear, targeted and effective	10
3.3 KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed	13
3.4 KPI 4: Compliance and monitoring approaches are streamlined and coordinated	16
3.5 KPI 5: Regulators are open and transparent in their dealings with regulated entities	18
3.6 KPI 6: Regulator actively contributes to the continuous improvement of regulatory frameworks	19
4. Stakeholder Validation	20
5. Product types regulated under the GEMS Act	22
6. Equipment Energy Efficiency Review Committee Membership	23

1 Performance snapshot for 2019-20

Executive summary

On 1 October 2012, the Greenhouse and Energy Minimum Standards (GEMS) Act 2012 came into effect, creating a national framework for product energy efficiency in Australia. The GEMS Act is the underpinning legislation for the national Equipment Energy Efficiency (E3) program. The GEMS Regulator, based in the Commonwealth Department of Industry, Science, Energy and Resources, is responsible for administering the GEMS Act.

The GEMS Regulator continues to administer a best practice regulatory framework as measured against the Key Performance Indicators (KPIs) of the Regulatory Performance Framework (the Framework). The Regulator is mindful of the regulatory burden placed on those that it regulates and is focused on continuous improvement.

In 2019-20, replacement Determinations for Refrigerated Cabinets and Household Refrigerating Appliances were registered and published (Australia only). The new 2019 Air Conditioner Determination (up to 65kW) came into effect introducing a number of changes, including the Zoned Energy Rating Label (ZERL). The ZERL provides consumers with better information, enabling them to select an air conditioner that would perform better and save energy, based on the climate where they live.

Throughout the 2019–20 financial year, the GEMS Regulator undertook activities to reduce and simplify the regulatory compliance burden on regulated entities. These included improvements to the GEMS registration system and program website (energyrating.gov.au), and approving registrations and responding to queries in a timely manner. The GEMS Regulator was also busy responding to enquiries arising from the COVID-19 pandemic.

The GEMS Regulator reduced the published KPI for assessing applications from 28 to 14 days in April 2019, as part of its commitment to support registered entities. Similarly, the KPI for answering of enquiries was reduced from ten to seven days.

In 2019–20, the GEMS Regulator approved 5,371 applications and responded to 974 enquiries. Registration applications were approved in 1.15 days, on average. Two exemption requests were granted in 2019–20. The KPIs for registrations and queries were met or exceeded in the 2019–20 financial year:

The [GEMS Regulator Service Charter Statement](#) lists the KPIs which the GEMS Regulator aims to achieve:

- More than 99 per cent of registrations were completed within the 14 day target (taking an average of 1.15 days), down from 1.23 days in 2018–19
- Four applications for registration exceeded 42 days (after which a formal notice must be issued from the Regulator to the registrant)
- 95 per cent of responses to queries were sent within the seven day KPI.

The GEMS Regulator engaged and worked with suppliers, industry associations, government bodies and other relevant internal and external stakeholders to refine and enhance regulation, including a nationwide information program for a new Air Conditioning Determination. A number of actions were taken to reduce the burden on businesses in light of COVID-19, including the deferral of consultation processes and the Annual Stakeholder Satisfaction Survey.

The GEMS Regulator is responsible for monitoring and enforcing compliance with the GEMS Act. It does this through an intelligence-led, risk-based program of check testing, GEMS inspector market surveillance both online and instore, and responding to allegations of suspected non-compliance.

In 2019-20 the GEMS Regulator completed check tests of 130 models of 16 GEMS products. Of these models, 96 met GEMS requirements and 34 did not.

Regulatory improvements over the coming reporting period will focus on:

- continuing to improve the registration system
- improving implementation of new and amended product determinations
- enhancing information and data collection capabilities, and using the intelligence gained to better target monitoring and enforcement.

2 Introduction

2.1 About the GEMS Regulator

The GEMS Act supports the development and adoption of appliances and equipment that use less energy and result in fewer greenhouse gas emissions than competing products. The GEMS Act commenced on 1 October 2012. It replaced seven overlapping pieces of state and territory legislation and four state regulators with one national regulator, simplifying the system for manufacturers and importers of regulated appliances and equipment. A parallel energy efficiency work program for appliance energy efficiency is run in New Zealand.

During the 2019–20 financial year reporting period, the GEMS Regulator and its functions were situated within the Department of Environment and Energy and from February 2020 in the Department of Industry, Science, Energy and Resources (the Department).

The GEMS Regulator's service delivery principles are:

Communication

Regulator staff are committed to open, effective and timely engagement, involving both listening and talking with all stakeholders.

Integrity

Stakeholder engagement can only be successful if all parties conduct themselves in a manner that fosters mutual respect and trust.

Transparency

Strong stakeholder relationships rely on all parties clearly understanding information and feedback processes and activities and what is required of them as participants.

Collaboration

Input and participation from a broad range of stakeholders and technical experts ensures the effective and efficient administration of the GEMS legislation.

The Equipment Energy Efficiency (E3) program promotes greater energy efficiency for regulated products by enabling consumers to make informed choices to improve energy efficiency and reduce greenhouse gas emissions. The main policy tools the program uses are mandatory Minimum Energy Performance Standards and Energy Rating Labels for appliances and equipment.

The Department works cooperatively with state and territory agencies to develop the E3 program under an intergovernmental agreement. Australia also collaborates on energy efficiency standards with New Zealand through a policy framework and funding arrangement for the E3 program, ensuring the greatest net benefit for both countries.

The E3 program is overseen by the Energy Efficiency Advisory Team, which reports to Energy Ministers. The advisory team comprises representatives from the Australian Government, state and territory government agencies, and from the New Zealand Government.

The GEMS Regulator contracts with Energy Safe Victoria, a statutory authority of the Victorian Government, for services relating to the administration of the GEMS Act.

The GEMS Act is the underpinning legislation for the E3 program and sets out the functions of the GEMS Regulator, which are to:

- administer the GEMS Act
- maintain the GEMS Register
- register products that are regulated under the GEMS Act
- assist in developing GEMS determinations
- provide information and advice relating to the GEMS Act
- monitor and enforce compliance with the GEMS Act
- review and evaluate the operation of the GEMS Act.

A list of the products covered by the GEMS Act is included at Section 5 below.

The E3 Program and requirements set under the GEMS Act, including the activities of the GEMS Regulator, are contributing to meeting the Government's target of a 40 per cent improvement in energy productivity between 2015 and 2030. The *National Energy Productivity Plan* released in December 2015 sets out how Energy Ministers plan to achieve this target.

Departmental representatives of the Energy Efficiency Advisory Team regularly consult with industry and other stakeholder groups on a formal and informal basis to seek views and explain the appliance energy efficiency policy work of the E3 Program. This includes seeking formal stakeholder input during the drafting of regulation impact statements and stakeholder participation at advisory group meetings, such as those of the Equipment Energy Efficiency Review Committee (E3RC). The Energy Efficiency Advisory Team participates at meetings of peak industry groups, such as those of the Consumer Electronics Suppliers Association, the Lighting Council Australia and the Rotating Machines Forum.

In 2019-20 the Australian Government released the Final Report of the *Independent Review of the Greenhouse and Energy Minimum Standards Act 2012* (GEMS Act).

The review is a statutory requirement to ensure the GEMS Act remains appropriate and effective in reducing Australia's energy consumption and greenhouse gas emissions. Ms Anna Collyer, a partner at law firm Allens, undertook the review.

The Final Review Report provides the findings and recommendations of the independent review. The Final Review Report was informed by written submissions, as well as group and one-on-one meetings between the independent reviewer and stakeholders. It contains a number of recommendations, which the Government will consider before publishing a response. The GEMS Regulator will act to implement elements of the Government's response that fall within its functions and responsibilities.

2.2 The Australian Government Regulator Performance Framework

The Government has committed to reducing the burden of regulation on individuals, business and community organisations.

To achieve this the Government has developed the Regulator Performance Framework (RPF) to give business, the community and individuals the confidence that regulators effectively and flexibly manage risk. Efficiently administered regulatory frameworks can improve the operation of businesses, markets and the economy, bring major benefits for individuals and lead to fewer resource requirements for regulators.

The RPF includes six outcomes-based KPIs to articulate the Government's overarching expectations of regulator performance, namely:

1. regulators do not unnecessarily impede the efficient operation of regulated entities
2. communication with regulated entities is clear, targeted and effective
3. actions undertaken by regulators are proportionate to the risk being managed
4. compliance and monitoring approaches are streamlined and coordinated
5. regulators are open and transparent in their dealings with regulated entities
6. regulators actively contribute to the continuous improvement of regulatory frameworks.

The Framework also includes a requirement for regulators to undertake an annual self-assessment against the RPF KPIs and publish a report on the outcomes of that self-assessment and any external reviews of the regulator's performance.

2.3 GEMS Regulator's Approach to the Implementation of the Framework

This self-assessment reports on the achievements in 2019-20 against the KPIs. The evidence metrics used to measure performance against the KPIs were reviewed and endorsed by the E3RC stakeholder reference group.

The E3RC has, and will continue to be, consulted at different stages of the GEMS Regulator's performance assessment and reporting, including:

- developing performance measures
- preparing self-assessment reports
- conducting external reviews (if required)
- exploring opportunities for regulatory reform.

The GEMS Regulator views the framework as a tool for consulting with stakeholders to better administer regulation. The framework complements other activities to improve service delivery such as stakeholder surveys, industry feedback and maintaining alignment with published KPIs.

3 Assessment

3.1 KPI 1 – Regulators do not unnecessarily impede the efficient operation of regulated entities

Measures

The measures the GEMS Regulator has for this KPI are:

- The GEMS Regulator demonstrates an understanding of the operating environment of the industry and the current and emerging issues that affect the sector.
- The GEMS Regulator is proactive in minimising the potential for unintended negative impacts of regulatory activities on regulated entities or affected supplier industries and supply chains. The GEMS Regulator will seek a balance between the responsibility to deliver protection to consumers and the burden imposed by external intervention.
- Through careful and targeted compliance activities, enforcement activities only occur when there is a clear case for doing so and within the guidelines of the compliance policy on the energyrating.gov.au website.
- The GEMS Regulator implements continuous improvement strategies to reduce the cost of compliance for those it regulates. Regular reviews of the programs and structures are required to ensure that the program is running at optimum efficiency.

Performance

The GEMS Regulator has been involved in the following activities to meet this KPI in 2019–20:

- working with suppliers, industry associations and agents to inform them of their obligations under the Act and better understand their operating environment.
- holding and participating in meetings with industry through the E3RC, Consumer Electronics Suppliers Association, Air-conditioner and Commercial Refrigeration Advisory Committee, Lighting Council Australia and the Rotating Machines Forum to discuss the work plan and administration of the regulator's functions.
- implementing an intelligence-led, risk-based and targeted approach to compliance monitoring activities which resulted in 130 models of GEMS products being tested during this period. Of these, 96 met GEMS requirements, while the remaining 34 did not. The GEMS Regulator cancelled 19 registrations and took alternate enforcement actions against 15 models. These actions help ensure the integrity of GEMS products by encouraging industry to enter accurate registration data and comply with the standards required.
- aiming to approve registrations as quickly as possible, with applications being approved in an average of under one day over the financial year. Seventeen assessments were completed outside the new 14 day target set by the program's Service Charter to assess applications. This was 0.35 per cent of all applications.
- monitoring complex registrations which take over 42 days to complete assessment. Assessments taking more than 42 days are formally notified in writing by the GEMS Regulator. During 2019-20, four assessments exceeded the 42 day requirement resulting in notifications to those applicants under Section 67 of the GEMS Act 2012.
- updating and enhancing the GEMS registration system to improve and simplify it for the end user including creating an upgrade facility for refrigerated cabinet suppliers to upgrade their old 2012 determination registrations to the latest one signed (now 2020); functionality to prevent fee payment for incomplete or non-compliant registrations; and improvements to the help text that appears throughout the registration system to guide applicants.
- granting exemptions to allow products that do not meet GEMS requirements for a legitimate reason to be able to supply the product. Two exemptions were granted by the GEMS Regulator in the 2019–20 financial year.
- resolving over 500 queries. The Energy Rating Team resolved most queries in an average of under one day, with approximately 95 per cent of queries answered within

seven business days, minimising any delays for industry to contact the GEMS Regulator for advice.

- deferral of several consultation processes, including on televisions and electric motors, in recognition of the significant impact of COVID-19 on businesses around the country as well as global supply chains, and agreement that future timing of consultation on new regulatory proposals under GEMS would be considered by E3RC.

Areas of improvement identified for 2020–21

The activities identified by the GEMS Regulator to undertake in 2020–21 to further improve on the results from this year include:

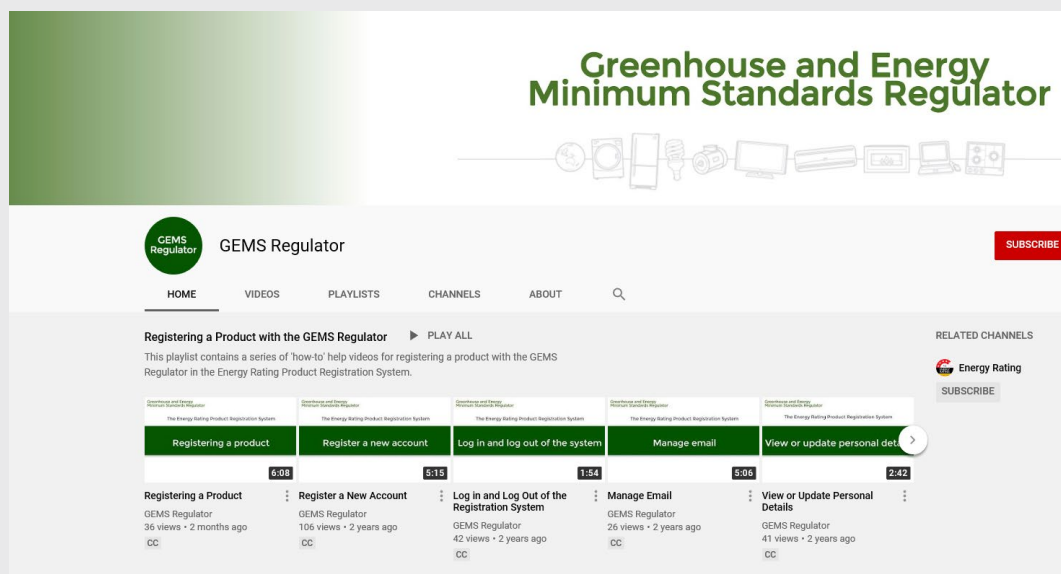
- ongoing consideration of the impact of COVID-19 on supply chains and test laboratory capability and the ability of industry to comply with their obligations under the GEMS Act.
- ongoing enhancements and updates to the GEMS registration system, energy rating website and calculator.
- refinements to the *Suppliers' Guide to the Energy Rating Product Registration System* to make it easier for registrants to find relevant sections and to make the guide more comprehensive to address functionality not currently covered.
- consider recommencing the annual stakeholder satisfaction survey which was deferred in 2019-20 due to COVID-19.

Case Study

Registration Service

Upon noticing that a large number of enquiries from registrants were about how to fill in various fields in the registration system, a [GEMS Regulator YouTube](#) channel was established. Around 60 separate videos were produced by regulator staff, giving step-by-step instruction on how to correctly fill in many of the fields in the registration system. Usage statistics suggest an overwhelming number (more than 90 per cent) of active registrants have viewed these videos.

Videos have also been produced outlining regulatory changes to products following the implementation of new GEMS Determinations. User feedback has been very positive, as many stakeholders are more comfortable viewing a 'how to' video than reading through a user guide. Following the release of the channel, enquiries of this type have reduced. The channel continues to be used extensively. In 2019-20 seven new videos relating to changes to the air conditioner (under 65kW) determination were uploaded.



3.2 KPI 2 – Communication with regulated entities is clear, targeted and effective

Measures

The measures the GEMS Regulator has for this KPI are:

- to provide advice and guidance that is clearly articulated, consistent, up-to-date and easily accessible. This will help to reduce the compliance burden and reduce the incidence of non-compliant activity on regulated entities.
- communicate in a way that regulated entities clearly understand what they need to do in order to comply with regulation and understand their compliance burden.
- set out information on the energy rating website in a manner that allows regulated entities to quickly find out which regulations apply to them, what the requirements are, and how they can comply and/or improve compliance over time.
- specific legislative requirements and processes are clearly explained so that regulated entities understand how these requirements fit into the overarching regulatory framework and the reasons for regulatory decisions that are made.
- consider the impact on regulated entities and engage with industry groups and representatives of affected stakeholders before changing policies, practices or service standards.

Performance

Throughout 2019–20 the GEMS Regulator has been involved in the following activities to meet this KPI:

- publishing the *Efficiency Standard* electronic newsletter, highlighting consultation on proposed policy, and solutions to common problems regulated entities may encounter when registering products – a readership survey was undertaken in 2019-20 to seek stakeholder input on the content, format and frequency of the newsletter.



- improving the electronic registration process to make it easier for regulated entities to register including additional help links and text on each page to help registrants complete the application process.
- development of additional 'how-to' registration help videos published to the GEMS Regulator YouTube Channel including an updated '*Changes to Registration of Electric Motors in Australia*' video.

- holding meetings between GEMS inspectors and stakeholders to engage and educate them regarding their obligations under the GEMS Act. For instance, GEMS inspectors visited suppliers of refrigerated display cabinets and factories that have machinery containing electric motors to educate them about their obligations under the GEMS legislation.
- delivery of national air conditioning information sessions helping manufacturers, importers, and suppliers understand the new GEMS labelling requirements (see Case Study below).
- using GEMS inspections as opportunities to engage with and educate suppliers about all aspects of complying with the GEMS Act.
- engaging with stakeholders in drafting revised or new policy, including the formation of working groups.
- participating in formal biannual meetings with industry through the E3RC meeting forum to discuss the work plan and administration of the Regulator's functions.
- deferral of the annual stakeholder satisfaction survey assessing program performance, usually conducted in May/June, in recognition of the significant impact of COVID-19 on regulated businesses.

Areas of improvement identified for 2020–21

Activities identified by the GEMS Regulator to undertake in 2020–21 to further improve on the results from this year include:

- continue holding E3RC and industry meetings to discuss issues and proposed policy changes to ensure the administration of the regulator's functions are as smooth as possible for relevant stakeholders.
- trial virtual based meetings, workshops and information sessions in recognition of the impact of COVID-19 on the ability of businesses to engage.
- undertake user testing of the energy rating website and calculator to identify opportunities to improve the structure, navigation and content to make it easier for regulated entities to understand their obligations and quickly find the information they need.
- conduct the annual stakeholder satisfaction survey to assess progress on service delivery.
- continue to develop and share a three year work plan with stakeholders.

Case Study

2019 Air Conditioner Information Sessions

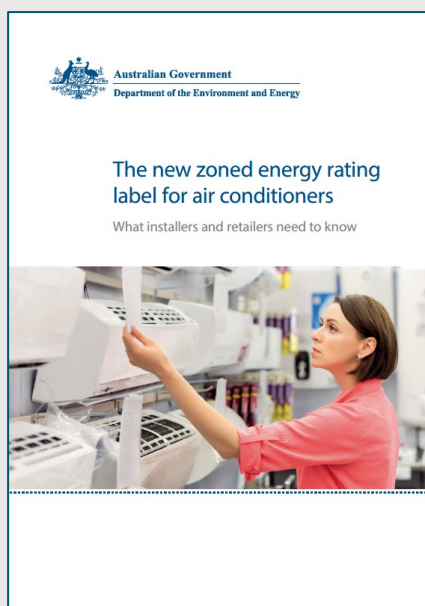
In September and October 2019, the Regulator delivered a series of nationwide information sessions to educate and engage with industry on the new 2019 Air Conditioning Determination and changes to the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*. The sessions were held in Canberra, Sydney, Brisbane, Melbourne, Adelaide, Perth and Hobart and attended by representatives from manufacturers, suppliers and retailers in the sector.

The sessions provided the opportunity for industry to better understand the various changes to the regulations and provided an opportunity for Regulator staff and industry representatives to meet in person. A recording of one of the sessions was published on the Energy Rating Website and the GEMS Regulator YouTube channel.

Material was prepared for the information sessions and for affected stakeholders, including:

- animated videos providing an overview of the new energy rating label for air conditioners in two different lengths, with the longer version providing further detail
- an A5 hard copy booklet providing an overview of how to read the new label, questions an installer or retailers might be asked and in-store display requirements
- a hard copy A4 fact sheet on how to read the new label and how to use the new label.

A survey was conducted at the information sessions to ascertain the value of the forums and refine the approach and content for future communication strategies.



3.3 KPI 3 – Actions undertaken by regulators are proportionate to the regulatory risk being managed

Measures

The measures the GEMS Regulator has for this KPI are:

- The GEMS Regulator applies a risk-based, proportionate approach to compliance that is targeted to the areas requiring the most attention. Any enforcement action is proportionate and only undertaken when necessary. A risk-based approach to regulation promotes the most efficient use of resources and improves the effectiveness of the regulatory framework.
- Risk assessments are balanced and implemented uniformly and impartially, while being dynamic and open to scrutiny.
- Where the risk of non-compliance is high or the consequences of non-compliance is significant, there is a higher degree of monitoring. Where the risk of non-compliance is low or the consequences of non-compliance is minor, monitoring is less intensive.
- A full suite of regulatory tools is appropriately used to ensure compliance. Where possible, regulators consider the use of positive incentives, cooperation from industry groups and other means to encourage compliance. Any enforcement action undertaken is within the constraints of the authorising legislation and penalties are proportionate to both the seriousness of the breach and the risk being managed.
- The GEMS Regulator's preferred approach to regulatory risk is regularly reassessed. Strategies, activities and enforcement actions are amended to reflect changing priorities that result from new and evolving regulatory threats, without diminishing regulatory certainty or impact.

Performance

Throughout 2019–20 the GEMS Regulator has been involved in the following activities to ensure that its actions are proportionate to the regulatory risk being managed:

- educative, administrative, civil, and criminal response options which consider an entity's compliance history, behaviour, motivation, and intention, and are proportionate to the risk posed by the non-compliance as provided for by the GEMS Act
- The GEMS Regulator's compliance approach is based on five elements:
 1. engaging with, and educating regulated entities to assist them in voluntarily complying with the requirements of the GEMS Act
 2. monitoring compliance through check testing, market surveillance and responding to allegations of suspected non-compliance
 3. investigating instances of suspected non-compliance and providing the GEMS Regulator with transparent and defensible conclusions and recommendations
 4. responding to non-compliance based on the risk continuum illustrated below:



5. reviewing all policies regularly, as well as reviewing processes and activities to achieve an intelligence-led, risk-based approach to GEMS Act compliance:
 - For example, GEMS inspectors inspected suppliers throughout Australia to ensure that models of GEMS products met GEMS registration and labelling requirements once in the marketplace. These inspections produced data and information which when analysed, revealed specific issues in relation to labelling. This enabled a targeted and educative approach for future inspections, and the development of a more efficient and effective GEMS inspection monitoring program.
- Internal compliance processes ensure all enforcement responses are considered by a Case Investigations Group and the GEMS Regulator. Where appropriate, departmental legal services are involved to ensure responses are transparent, defensible and proportionate.
- The GEMS Regulator's check-testing selection criteria are intelligence-led, risk-based and targeted. This assists in the identification of product models with a higher than average risk of failure to meet GEMS level requirements or energy performance claims, and models with the greatest potential impact on energy use and greenhouse gas emissions.
- The GEMS Regulator's annual *GEMS Compliance Monitoring Program* is published on the energy rating website, and outlines the compliance monitoring focus for the following financial year. All results from previous check testing and market surveillance activities are taken into account when developing the program.
- The results of compliance monitoring activities and enforcement action are published on the energy rating website and included in documents such as the *GEMS Annual Report* (published as an appendix to the Department's Annual Report).

Areas of improvement identified for 2020–21

Activities identified by the GEMS Regulator to undertake in 2020–21 to further improve on the results from this year include:

- enhance information and data collection capabilities.
- enhance analysis capabilities.
- use the resultant intelligence to continue to direct intelligence-led, risk-based compliance monitoring and enforcement activities.
- assess high risk and high non-compliance products that are regulated by GEMS and apply the five elements of the compliance approach set out above to enforce compliance.
- continue engagement with regulated industries to inform them of their obligations through attendance at industry fora, holding workshops and meetings targeted at specific industries and targeted individual stakeholder engagement.
- continue check testing products and sending GEMS inspectors to different suppliers to check for compliance.
- revise the annual *GEMS Compliance Monitoring Program* based on activities carried out in 2019–20 to inform the program for 2020–21.

Case Study

GEMS Compliance

In response to calls for increased visibility of GEMS compliance monitoring and enforcement activities, the GEMS Regulator has, among other initiatives, continued GEMS inspector market surveillance activities but, in line with its intelligence led, risk based approach, focused resources on those areas requiring greater attention.

For example, the rise of online supplies has required GEMS inspectors to inspect a range of online fora and develop responses by working collaboratively with these online suppliers.

GEMS inspectors have developed a solid working relationship with a major online supplier (eBay) which will be used as a basis for working with other online suppliers.

Initiatives such as this promote a greater awareness of GEMS Act requirements among more suppliers, contribute to the 'level playing field' desired by industry, and support the goals of reducing Australia's energy use and greenhouse gas emissions.

3.4 KPI 4 – Compliance and monitoring approaches are streamlined and coordinated

Measures

The measures the GEMS Regulator has for this KPI are:

- The GEMS Regulator's information requests are tailored and only made when necessary to secure regulatory objectives. The cost to the regulated entity is taken into account in the design and implementation of the GEMS Regulator's compliance regime.
- The GEMS Regulator seeks to minimise the compliance costs imposed on entities by inspection and monitoring approaches through risk-based approaches and streamlined inspection and monitoring processes.
- The GEMS Regulator only seeks information from regulated entities when required to achieve the regulatory outcome sought. In seeking information, the GEMS Regulator takes into account whether the same information could be sourced in other ways, including from other regulators.
- Inspections that are carried out by authorised GEMS inspectors are justified and targeted based on risk to address persistent breaches of regulation or to improve compliance outcomes.

Performance

Throughout 2019–20 the GEMS Regulator has been involved in the following activities to meet this KPI:

- using information and evidence gathered from all activities to develop intelligence to target locations, suppliers, and products at risk. GEMS inspectors regularly targeted cancelled registrations during market surveillance activities. GEMS registrations for models of GEMS products cancelled as a result of, for example, failing to meet GEMS level requirements during a check test, were explicitly monitored. It is an offence under the GEMS Act to supply unregistered models or models unable to meet GEMS level requirements. Cancellation of non-compliant products helps to maintain the integrity of products registered under the GEMS Act.
- using an intelligence-led, risk-based approach to select models of GEMS product for check testing.
- maintaining regular contact with the Water Efficiency Labelling and Standards compliance team on products regulated by both GEMS and the Water Efficiency Labelling and Standards programs. This included discussing areas of compliance that have arisen, and sharing information about potential non-compliance and best practice approaches to compliance.
- working closely with other regulators including the Australian Competition and Consumer Commission (ACCC) and state, territory and international regulators such as the Western Australian Department of Commerce, Energy Safe Victoria and the Energy Efficiency and Conservation Authority in New Zealand. Information shared included product safety relating to GEMS products, issues relating to GEMS products also regulated through the Water Efficiency Labelling and Standards scheme, and general compliance approaches across the various regulators.
- engaging with state, territory, and international counterparts where appropriate. Canberra-based staff work with state and territory counterparts to engage GEMS inspectors to participate in the GEMS inspection monitoring program. Canberra-based GEMS staff worked closely with New Zealand's Energy Efficiency and Conservation Authority, including hosting visits, maintaining information and intelligence sharing arrangements and ensuring consistent approaches to trans-Tasman equipment and appliance compliance.

Areas of improvement identified for 2020–21

Activities identified by the GEMS Regulator to undertake in 2020-21 to further improve on the results from this year include:

- continue to check test and monitor compliance in accordance with the policies set out on the energy rating website. This includes using an intelligence-led, risk-based approach to GEMS Act compliance.
- continue to engage and consult with relevant industry stakeholders as well as the Water Efficiency Labelling and Standards Regulator and the New Zealand Energy Regulator in relation to compliance issues.
- carry out compliance activities in accordance with the annual *GEMS Compliance Monitoring Program for 2020-21*. Products that the GEMS compliance team will particularly focus on in 2020-21 include air conditioners, household refrigerators and dishwashers. These products were identified in 2019-20 as having a high risk of non-compliance with GEMS legislation.

3.5 KPI 5 – Regulators are open and transparent in their dealings with regulated entities

Measures

The measures the GEMS Regulator has for this KPI are:

- The GEMS Regulator is open and transparent in regulating by making risk-based frameworks publicly available in a clear, understandable and accessible format.
- Dealings with regulated entities are open and responsive to ensure that the GEMS Regulator is accountable for decisions that are made.
- The GEMS Regulator's performance measurement results are published in a timely manner to ensure accountability to the public.
- The GEMS Regulator's *Service Charter Statement* is published on energyrating.gov.au. The statement notes that the GEMS Regulator's service is based on principles including transparency.

Performance

Throughout the 2019–20 financial year, the GEMS Regulator has been involved in the following activities to meet this KPI:

- The energy rating website can be publicly accessed through www.energyrating.gov.au. The website provides details regarding all GEMS regulated products, registration of products, compliance and information on GEMS legislation. It also contains information for consumers which is not regulated by GEMS legislation.
- The GEMS Regulator's compliance pages at energyrating.gov.au contain links to:
 - *GEMS compliance policy*
 - *GEMS check testing policy*
 - *GEMS check testing selection criteria*.These documents communicate the GEMS Regulator's risk-based frameworks as they relate to compliance monitoring and enforcement.
- Industry experts and industry representatives accompany GEMS inspectors during relevant market surveillance activities.
- The Energy Rating Team has dedicated staff responsible for answering queries on GEMS issues. Approximately 80 per cent of queries are answered within two days of receipt and over 95 per cent have received an initial response within seven days.
- The *GEMS Annual Report* publishes outputs, metrics and activities that have been carried out in the preceding financial year.
- Compliance letters set out the reasons for the GEMS Regulator's decision.

Areas of improvement identified for 2020–21

Activities identified by the GEMS Regulator to undertake in 2020–21 to further improve on the results from this year include:

- continue to publish relevant information on the energy rating website.
- consider recommencing the annual stakeholder satisfaction survey.
- ensure that the *GEMS Annual Report* and the *GEMS Regulator Performance Framework Report* are published in accordance with agreed timelines.
- consult on and progress the review of GEMS fees.

3.6 KPI 6 – Regulator actively contributes to the continuous improvement of regulatory frameworks

Measures

The measures the GEMS Regulator has for this KPI include:

- The GEMS Regulator establishes a cooperative and collaborative relationship with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.
- The GEMS Regulator engages stakeholders in the development of options to reduce compliance costs. Information collected as part of monitoring and compliance approaches is used by regulators to inform improvements in the authorising legislation and achieve reductions in compliance costs.
- The GEMS Regulator regularly shares feedback from stakeholders and performance information (including from inspections) with policy departments to improve the operation of the regulatory framework and administrative processes.

Performance

Throughout 2019–20 the GEMS Regulator has been involved in the following activities to meet this KPI:

- Worked with internal and external stakeholders including suppliers, industry associations, jurisdictional governments, other Commonwealth agencies as well as its New Zealand counterpart on a range of GEMS related matters.
- Held and participated in meetings with industry through the Equipment Energy Efficiency Review Committee, Consumer Electronics Suppliers Association, and the Rotating Machines Forum to discuss the work plan and administration of the Regulator's functions. These fora improve understanding between the functions of the GEMS Regulator and the obligations of regulated entities. Feedback received is consistently used to improve on the efficiency and effectiveness of the GEMS regulatory framework. This includes regular updates on the information placed on the energy rating website, enhancements to the registration system and development of future GEMS related policies.
- Registration system improvements include: preventing fee payment for incomplete registrations; an upgrade facility for old to new determinations for refrigerated display cabinets; ensuring the new air-conditioning determination data was publically available; and a host of cyber-security improvements to protect the commercial in confidence data of GEMS registrants.
- Published compliance monitoring and results from check testing on the compliance section of the energy rating website.

Areas of improvement identified for 2020–21

Activities identified by the GEMS Regulator to undertake in the 2020–21 financial year to further improve on the results from this year include:

- continue to work with external and internal stakeholders to constantly refine and enhance the administration of the GEMS legislative framework
- hold and attend relevant workshops and meetings with stakeholders (subject to COVID-19) to discuss ongoing work and strategies to improve on existing practices
- consider submissions and feedback provided and where feasible, adopt the changes that decrease regulatory burden and increase the efficient operation of GEMS regulation
- publish the annual *GEMS Compliance Monitoring Program* for 2020–21 to inform stakeholders of the compliance activities the GEMS Regulator proposes to carry out over the financial year. Publish the results from check testing and GEMS inspection.

4 Stakeholder validation

In accordance with the Regulator Performance Framework, the GEMS Regulator would normally undertake an Annual Stakeholder Satisfaction Survey to provide an alternative source of evidence to inform this self-assessment. Due to COVID-19 the annual survey, usually conducted in May/June, was postponed in recognition of the reduced capacity of industry to engage in non-essential activities such as consultation and engagement.

The GEMS Regulator sought external stakeholder validation of this self-assessment through the E3RC stakeholder reference group. E3RC has previously been identified as the stakeholder consultation mechanism to be used for different stages of the GEMS Regulator's performance assessment and reporting for the purposes of the Regulator Performance Framework.

The 2019-20 Self-Assessment was circulated via email to members of E3RC on 18 October 2020.

Comments were provided as summarised below.

4.1 Stakeholder validation

The E3RC was asked for assistance to validate the 2019-20 GEMS RPF Self-Assessment Report on 16 October 2020.

Feedback was received from the National Electrical and Communications Association (NECA), stating they had reviewed the report and had no issues to raise.

Feedback was also received from the Lighting Council Australia regarding KPI 1 – Regulators do not unnecessarily impede the efficient operation of regulated entities. The feedback concerned a lighting product which had expired and the difficulties created in the process of having to register the product again.

The Consumer Electronics Suppliers Association (CESA) wrote:

In response to your Review of the Regulator Performance Framework and GEMS, I am pleased to report that CESA Members are very satisfied with the performance of the Regulator for Energy Efficiency and the operation of the GEMS Framework. CESA considers the Regulator and GEMS Team have performed extremely well in the last twelve months against all KPIs, particularly in the light of the limitations caused by the COVID lockdowns. CESA is an active member of the E3 Review Committee and values the opportunity to participate in this effective consultative mechanism. Concerns by CESA Members with aspects of the regulatory regime such as glitches in the registration from time to time have been effectively dealt with by the GEMS Team in a timely manner. CESA welcomes the opportunity to have a continued input and comment on development and future plans of the GEMS scheme and associated compliance requirements.

4.2 GEMS Regulator response

The GEMS Regulator will investigate the registration issue raised by the Lighting Council Australia and provide a response to their feedback.

The GEMS Regulator notes the positive feedback from CESA. Positive feedback of this nature reflects well on the performance of staff working for the GEMS Regulator, particularly in the difficult year that has been 2020: this feedback has been passed on to staff with the GEMS Regulator's congratulations.

5 Product types regulated under the GEMS Act

Air Conditioners
Ballasts for Fluorescent Lamps
Chiller Towers
Close Control Air Conditioners
Clothes Dryers
Clothes Washing Machines
Commercial Refrigerators/Display Cabinets
Compact Fluorescent Lamps
Computer Monitors
Computers
Dishwashers
Distribution Transformers
Double-capped Fluorescent Lamps
Electric Motors
Electric Water Heaters
External Power Supplies
Extra Low Voltage Lighting Converters
Gas Water Heaters
Incandescent Lamps
Refrigerators/freezers
Set Top Boxes
Televisions

6 Equipment Energy Efficiency Review Committee Membership

Organisation
AiGroup
Air-conditioning & Refrigeration Equipment Manufacturers Association of Australia
Alternative Technology Association trading as Renew Australia
APA Group
Australia Water Heating Forum / Rinnai Australia
Australian Industry Group (AIG)
Australian Information Industry Association
Australian Pipeline Association
Brotherhood of St Laurence
Choice
Consumer Electronics Suppliers Association (CESA)
Energy Efficiency Council
Energy Networks Australia
Gas Appliance Manufacturers Association of Australia (GAMAA)
Gas Energy Australia (GEA)
Lighting Council of Australia
Manufacturing Australia / (RHEEM)
National Electrical Communications Association
RHEEM
Rinnai
Sanden
SIT Gas
Standards Australia